

REMARKS

Claims 1-15 and 17-23 remain in this application.

Claim Objections

The present Action objects to the drawings under 37 CFR 1.83(a), and states that "the alignment marks must be shown or the feature(s) canceled from the claim(s)." To facilitate prosecution of this application to prompt allowance, and without prejudice to Applicant's right to claim this subject matter hereafter, including in further applications, Applicant has canceled dependent claim 16, which refers to alignment marks. Applicant thus respectfully requests that the objection be withdrawn.

Claim Rejections

In the present Action, claims 1-3, 6, 7, 11-14, 16-19 and 23 have been rejected as anticipated by U.S. Pat. No. 5,557,813 to Steed *et al.* ("Steed"), claims 4 and 5 have been rejected as obvious over Steed in view of U.S. Pat. No. 3,732,586 to Frey ("Frey"), and claims 8-10, 15 and 20-22 have been rejected as obvious over Steed in view of U.S. Pat. No. 6,772,463 ("Gladney"). For the reasons set forth below, Applicants respectfully submit that these rejections are in error.

The present Action asserts that Steed "discloses an assembly comprising an upholstery layer 14 for use with a mattress; a plurality of edge rails 20; and a plurality of hinges 34, 35 connecting each one of the edge rails to the upholstery layer" and for this reason anticipates independent claims 1, 17, and 23. In independent claim 1, however, Applicant claims an assembly comprising an upholstery layer for use with a mattress; a plurality of edge rails shaped and sized for use as edge rails of the mattress; and a plurality of hinges connecting each one of the plurality of edge rails to the upholstery layer such that each one of the plurality of edge rails can independently move between an unassembled position and an assembled position. Steed

does not teach or suggest hinges connecting a plurality of edge rails to an upholstery layer such that each of the edge rails can independently move between an unassembled position and an assembled position. Nor does Steed teach or suggest independent movement of connected edge rails between an unassembled position and an assembled position. Instead, Steed discloses bolsters that are secured in place with fabric straps 34 inserted through fabric loops 36 on the bottom panel of a shell. *See, e.g.*, Steed Col. 2 line 55 - Col. 3, line 1. (Applicant is unable to locate in Steed any structure with identifying number "35," as referenced in the present Action.) The bolsters disclosed in Steed are not attached by hinges such that each can independently move between an unassembled position and an assembled position – rather, Steed teaches that once a shell 12 is unfolded, the bolsters are to be “insert[ed] and strap[ped] . . . in proper position within the shell” with Steed’s disclosed straps. *See* Steed, Col. 3, lines 26-30; Col. 1, line 66 – Col. 2, line 4 (“The bolsters are maintained in proper position within the shell by straps connecting them to the bottom panel of the shell. By this configuration, the bolsters define an interior bounded space”). Applicant respectfully submits that Applicant’s claimed hinges explicitly connect the plurality of edge rails to an upholstery layer in such a fashion that each of the edge rails can move independently between an unassembled position and an assembled position, and that Steed contains no such teaching or suggestion; the current Action either improperly reads this limitation out of the claimed invention or improperly reads such a disclosure into Steed where no such disclosure is present to reconstruct through hindsight Applicant’s invention. Steed does not teach or suggest the claimed “plurality of hinges connecting each one of the plurality of edge rails to the upholstery layer such that each one of the plurality of edge rails can independently move between an unassembled position and an assembled position,” and for at least this reason Steed cannot anticipate the invention claimed in claim 1. Because claim 1 is patentable, for at least this claims 2-16, which contain additional

limitations and depend (directly or indirectly) from claim 1, are also patentable, and Applicant respectfully submits that the rejections of those claims in the present Action are in error.

In independent claim 17 Applicant claims, *inter alia*, a plurality of edge rails connected to the upholstery layer by hinges, positioning the upholstery layer adjacent to a surface of a mattress core, and rotating each one of the plurality of edge rails to rest adjacent to one of the plurality of a plurality of edges of the mattress core. As discussed above, Steed does not teach or suggest hinges connecting a plurality of edge rails to an upholstery layer such that each one of the plurality of edge rails is rotated to rest adjacent to one of a plurality of edges of a mattress core. For at least this reason, Steed cannot anticipate the invention claimed in claim 17.

Because claim 17 is patentable, for at least this claims 18-22, which contain additional limitations and depend (directly or indirectly) from claim 17, are also patentable, and Applicant respectfully submits that the rejections of those claims in the present Action are in error.

In independent claim 23 Applicant claims, *inter alia*, “a plurality of hinge means for movably and independently positioning each of the plurality of edge rails adjacent to the upholstery layer.” As discussed above, Steed does not teach or suggest hinge means for movably and independently positioning each of a plurality of edge rails adjacent to an upholstery layer, and for at least this reason, Steed cannot anticipate the invention claimed in claim 23.

Because all of Applicant’s independent claims are patentable, as a matter of law all of the dependent claims are patentable, including those presently rejected on obviousness grounds, and Applicant respectfully submits that the obviousness rejections in the present Action are moot.

Applicant notes that, following issuance of the present Action, Applicant submitted a May 4, 2005 Supplemental Information Disclosure Statement including an International Search Report dated April 5, 2005, in which all of the references cited were designated “A” (“document defining the general state of the art which is not considered to be of particular relevance”).

Applicant believes pending claims 1-15, and 17-23 are in immediate condition for allowance. If any issues remain, Applicants invite a telephone call and/or Examiner Interview to the below signed attorney to discuss such remaining issues.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Enclosed is a three month petition for extension of time and payment thereof. Applicant believes no further fees are due with this response. However, if any further fees are due, please charge our Deposit Account No. 18-1945, under Order No. SMCY-P01-102 from which the undersigned is authorized to draw.

Dated: September 23, 2005

Respectfully submitted,

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